

Antiquities Code of Texas

The Antiquities Code of Texas (the Code) was enacted in 1969 to protect archeological sites and historic buildings on public land. The law was precipitated by an incident in the late 1960s wherein a sunken 16th century Spanish treasure ship was plundered without regard for proper archeological controls, and significant historical information was lost.

The Code requires state agencies and political subdivisions of the state — including cities, counties, river authorities, municipal utility districts, and school districts — to notify the Texas Historical Commission (THC) of ground-disturbing activity on public land and work affecting state-owned historic buildings. The law also established the designation of [State Antiquities Landmark](#), which may be applied to historic buildings and archeological sites. The Antiquities Code (Texas Natural Resource Code, Title 9, Chapter 191) and accompanying Rules of Practice and Procedure (Texas Administrative Code, Title 13, Chapter 26) can be found under [Statutes, Regulations, and Rules](#).

Examples of projects that require review under the Antiquities Code of Texas include:

- construction of reservoirs by river authorities and water districts;
- construction of recreational parks or the expansion of existing facilities by city governments;
- energy exploration by private companies on public land;
- construction of water and wastewater lines and treatment plants; and
- rehabilitation or demolition of a building owned by a state agency or university that is at least 50 years old.

The THC issues antiquities permits for archeological studies or work at designated buildings and structures. The Antiquities Permit Application forms for Archeology and for Historic Buildings & Structures may be downloaded from the [Forms](#) page. An archeological permit may be issued only to a professional archeologist who meets the definition of a principal investigator as defined in Rules of Practice and Procedure for the Antiquities Code of Texas, available in [Statutes, Regulations, and Rules](#). Similarly, the project professional for historic buildings and structures permits generally must be an architect meeting the qualifications listed in the Rules, or under certain circumstances, other qualified professionals or contractors.

Notification Requirements

Political Subdivisions of the State

Counties, municipalities, and other local government agencies must notify the THC prior to commencing any project on public land that may affect archeological sites and will involve five or more acres of ground disturbance; 5,000 or more cubic yards of earth moving; will occur in a historic district or other designated historic site; or will affect a recorded archeological site. THC staff will review the project within 30 days of receipt of the notification and may issue recommendations regarding the project or require an antiquities permit for archeological studies prior to construction. The effects of a project on buildings, structures, or other above-ground historic resources are not considered in this review. Regardless of the size of a development project on public land, if archeological sites are encountered, the land-owning agency should stop work in those areas and notify the THC.

State Agencies

State agencies, including public universities, must notify the THC prior to breaking ground on public land. The ground-disturbance thresholds listed above are not applicable, and smaller projects will also require notification. THC staff will review the project within 30 days of receipt of the notification and may require an antiquities permit for archeological studies prior to construction.

Regarding historic buildings, state agencies must notify the THC at least 60 days prior to making modifications to or demolishing any building 50 years old or older. THC staff will evaluate the historic and architectural significance of the building and may make recommendations regarding the proposed work. The THC can waive the remainder of the notification period, or if the building is eligible for designation as a State Antiquities Landmark, may commence designation proceedings.

State Antiquities Landmarks

The Code defines all cultural resources on non-federal public lands in the State of Texas as eligible to be designated as [State Antiquities Landmarks](#) (SALs). Historic buildings and other aboveground historic resources must be listed in the National Register of Historic Places before they can be designated as SALs, but archeological sites do not have the same prerequisite. The Rules of Practice and Procedure for the Antiquities Code of Texas (available in [Statutes, Regulations, and Rules](#)) contain eligibility criteria for official SAL designations for both archeological sites and historic buildings. SAL designation does not mean that sites or buildings cannot be altered or destroyed. The land-owning agency must consult with the THC about such proposed actions through the permit process, and the THC will determine whether the work will be allowed. The Antiquities Permit Application forms for Archeology and for Historic Buildings & Structures may be downloaded from the [Forms](#) page.

Buildings designated as SALs are listed in the [Texas Historic Sites Atlas](#). However, information about designated archeological sites is not available to the general public to protect the sites from vandalism and destruction.

Antiquities Code and Federal Review

Many development projects involve both federal and state jurisdiction because they occur on lands owned by a state agency or political subdivision of the state, and also involve federal funding, permit, or license. In these cases, the review procedures and responsibilities will follow the [Section 106](#) process, but permits under the jurisdiction of the Code may also be required by the THC.

History of the Antiquities Code of Texas

The Antiquities Code of Texas was established as part of Chapter 442, Texas Government Code, by Senate Bill 58 in 1969, and it was re-codified as Title 9, Chapter 191 of the Texas Natural Resource Code when the law was enacted by Senate Bill 1207 in 1977. Revisions to the Antiquities Code were added as a result of the Sunset Review process as reflected in Senate Bill 231 in 1983 and Senate Bill 365 in 1995. Amendments were also made by Senate Bill 659 and House Bill 1074 in 1981, House Bill 2056 in 1987, Senate Bill 1865 and House Bill 2848 in 1997, and House Bill 3632 in 2009. In 1995, the 74th Legislature abolished the Texas Antiquities Committee and made the Texas Historical Commission the legal custodian of the Antiquities Code.